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10/803,849	03/17/2004	Brian Anderson	6781P006	6422
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EXAMINER				
STIBLEY, MICHAEL R				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/803,849

**Applicant(s)**

ANDERSON ET AL.

**Examiner**

MICHAEL STIBLEY

**Art Unit**

4194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-25 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-850)  
Paper No(s)/Mail Date 3/17/2004  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Inventor's Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the application filed on March 17, 2004. Claims 1-25 are currently pending and have been examined.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:
  3. Concerning Claim 1, "An method for..." should apparently be-- A method for...--.
- Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 1-9, Claim 13 and Claims 18-25 are rejected under 35 U.S.C. 101**

because the claimed recitation of a use as stated below, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966). See at least MPEP Sections 706.03(a), 706.03(d), and 2171-2174.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-9, Claim 13 and Claims 18-25 are rejected under 35 USC section 112 second paragraph** as Claims 1-9 and Claims 18-25 provide for "...the use of an existing customer account...", but, since the claim does not set forth any steps involved in the method/process (of how to use the existing customer account), it is unclear what method/process applicant is intending to encompass.
8. Additionally, Claim 13 provides for "...using an existing account...", but, since the claim does not set forth any steps involved in the method/process ("...of using an existing account...", it is unclear what method/process applicant is intending to encompass.
9. Additionally, Claim 3 provides for "...when the new customer account is used again...", but, since the claim does not set forth any steps involved in the method/process (of how to use the existing account again), it is unclear what method/process applicant is intending to encompass.
10. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. See at least MPEP Sections 706.03(a), 706.03(d), and 2171-2174.
11. **Claims 1-9, Claim 13 and Claims 18-25 are rejected under 35 U.S.C. 101** (see Statutory Basis above) because the claimed recitation of a use as stated above, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products*,

*Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966). See at least MPEP Sections 706.03(a), 706.03(d), and 2171-2174.

12. **Claim 17 is rejected under 35 USC section 112 second paragraph** as Claim 17 fails to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. Claim 17 recites "wherein the retail goods ARE CHOSEN from a group INCLUDING a gift certificate, a gift card AND a vacation package." It is unclear whether Applicant has attempted to claim gift certificate, gift card and a vacation package in the alternative only or whether each of a gift certificate, gift card, and a vacation package must be present. Examiner for purposes of examination will treat the claim language to mean in the alternative.

6. Ex parte Dotter, 12 USPQ 382 (Bd. App. 1931) held that it is improper to use the term "comprising" (ie including) instead of "consisting of." See MPEP 2173.05(h) Alternative Limitation.

7. Ex parte Markush sanctions alternative expression, commonly referred as a Markush group, as "selected from the group consisting of A, B, and C." See MPEP 2173.05(h) Alternative Limitations.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 18, 2, 19, 3, 20, 6, 23, 7, 24, 8, 25, 9, 10, 11, 12, 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Heintz et al, (HEINTZ) US Patent Application Publication, 2001/0025253 A1.**

8. **CLAIM 1 and CLAIM 18:** As per CLAIMS 1 and 18, HEINTZ teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program comprising: crediting (...to credit...HEINTZ pg 2, ¶120) an employee account (...first level user...second level user..., HEINTZ pg 1, ¶6. "...member (employee)...an account specific to the first level user is maintained...", HEINTZ pg 2, ¶120) ("The present invention provides a user-friendly multi-level award program that provides members with award points and an incentive to refer friends, family, co-workers (employee or supervisor) and others to the program." HEINTZ pg 1, ¶15 with a first amount (...award points...bonus points...first percentage...second percentage of award points earned by the second-level users...third percentage...fourth percentage...), HEINTZ pg 1, ¶16 in response to the creation of a new customer account; ("The program is also configured to credit the member's account for visits to a promotional Website made by users referred by the member. As shown in FIG. 2, the member (or enrolled user) refers a new user (or first-level user) to the award program on the internet. The member may refer the first-level user by providing the e-mail address of the first-level user, through the Web interface, to the award program, which then generates and sends an email message from the member to the first-level users.") HEINTZ pg 2, ¶120; **"The referral and enrollment (creation of new customer account)**

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of a second-level user **will benefit (crediting)** both the first-level user and the member that referred the first-level user to the award program" HEINTZ pg 2, ¶22 and crediting the employee account with a second amount in response to the use of an existing customer account. ("...Similar to steps 16-18 described above, in step 24, the award program provides points to the first-level user based on the **Internet activity (use of existing customer account)** of the first level user. These **award points** are deposited into the account of the first-level user in step 25. In addition, the member that referred the first-level user to the award program **receives (crediting) bonus points (second amount)** based on the activities of the first-level user **(in response to the use of an existing customer account)**. These activities, preferably, include all of the internet activity **(use of existing customer account)** in which the first-level user may receive points....") HEINTZ pg 2 ¶21-22, (...first percentage..., ...second percentage..., ...third percentage..., fourth percentage...) HEINTZ pg 1 ¶6

9. **CLAIM 2 and CLAIM 19:** As per CLAIMS 2 and 19, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program as stated above, wherein the first amount is greater than the second amount. ("...In the preferred embodiment, **the first percentage (first amount 10%) is about 10% (10% is greater than 5%), while the second percentage (second amount 5%) is about 5%** (e.g., for every 20 bonus points awarded to the second-level user, 2 bonus points will be awarded to the first-level user that referred the second-level user to the award program, and 1 bonus point will be awarded to the member that

referred the first-level user to the award program.) The bonus points may also be based on a proportion, fraction, or portion of any user's earned award points. ...")HEINTZ pg 2, ¶21-22

10. **CLAIM 3 and CLAIM 20:** As per CLAIMS 3 and 20, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program as stated above, further comprising: crediting the employee account with a third amount when the new customer account is used again. ("Additionally, third-level users may be referred by the second-level users and fourth-level users may be referred by the third-level users using the method described above. In this case, the member will receive, in addition to the bonus points equal to percentages of points earned by the first- and second-level users, bonus points equal to a third percentage (third amount) of the award points earned by the third-level user and a fourth percentage of the award points earned by the fourth-level user. Preferably the third and fourth percentages are the same as the second percentage, and more preferably, about 5%. Similarly, the first-level user will receive, in addition to the bonus points earned from the second-level user, bonus points equal to a second and third percentage of the award points earned by the third- and fourth-level users, respectively. The third-level user will also receive bonus points equal to a first percentage of the award points earned by the fourth-level user." HEINTZ pg 2-3, ¶23. "Software tracks internet activity of referred users (**plurality of uses**) and provides award points to the referred users. Software calculates bonus points awarded (**credited**) to the enrolled user (**employee**

account) based on percentages of the award points provided to the referred users  
(third amount)..." HEINTZ pg 3 ¶26.

11. **CLAIM 6 and CLAIM 23:** As per CLAIMS 6 and 23, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program as stated above, wherein the employee account is redeemable for retail goods. "The bonus points awarded from referrals are, preferably, of equal value to all of the points in the award points summary and are included in the total points. In regard to the spent points, after sufficient points for an award have been earned, the system allows the member to redeem points through the Web interface. The awards offered may be movie tickets (retail goods), gift certificates (retail goods), travel vouchers (retail goods), discounts or any other item." HEINTZ pg 3 ¶25.

12. **CLAIM 7 and CLAIM 24:** As per CLAIMS 7 and 24, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program as stated above, wherein the employee account is tracked according to an employee identification number. "...database receives and stores information (employee identification number) from referred users, including the first-level user, second-level user, third-level user, and fourth level user...Software tracks internet activity...Software calculates bonus points awarded to the enrolled user based on percentages of the award points provided to the referred users...." HEINTZ pg 3 ¶26  
"...some basic information...input information...along with some general demographic

information...” HEINTZ pg 2, ¶ 6 “In step 20, each first-level **user enrolls** in the award program by signing-up through the interface as a result of a referral from the member. The sign-up **entails an input of information** (employee identification (number)) for the first-level user, similar to the enrollment of the member in step 10... Preferably, the first-level user indicates a referral by providing the **username (employee identification (number)) of the member....**” HEINTZ Pg 2, ¶20

13. **CLAIM 8 and CLAIM 25:** As per CLAIMS 8 and 25, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program as stated above, wherein the employee account belongs to a retail employee. “The present invention provides a user-friendly multi-level award program that provides **members (retail employee)** with award points and an incentive to refer friends, family, **co-workers (retail employee)** and others to the program.” HEINTZ pg 1, ¶15 “...first level user, (retail employee) second level user, (retail employee) third level user (retail employee), fourth level user (retail employee)...” HEINTZ pg 1 ¶6

14. **CLAIM 9:** As per CLAIM 9, HEINTZ further teaches the method of CLAIM 8 as stated above, further comprising: crediting a supervisor account belonging to a supervisor of the employee when crediting the employee account. “The present invention provides a user-friendly multi-level award program that provides (**credit supervisor account**) **members (supervisor)** with award points ( and an incentive to refer friends, family, **co-workers (employee)** and others to the program.” HEINTZ pg 1, ¶15 “...This method further includes tracking internet activity of the first-level users,

second-level users, third-level users, and fourth-level users, **providing** the first-level users, second-level users, third-level users, and fourth-level users with **award points (crediting employee account)** for the internet activity, and calculating **bonus points awarded to the enrolled user (credit supervisor account)** based on a first percentage of the award points earned by the first-level users, a second percentage of the award points earned by the second-level users, a third percentage of the award points earned by the third-level users, a fourth percentage of the award points earned by the fourth-level users. "HEINTZ pg 1 ¶6

15. **CLAIM 10:** As per CLAIM 10, HEINTZ teaches the method of CLAIM 10 for implementing an employee loyalty program comprising: establishing an employee account linked with an employee identification number (ID); HEINTZ pg 2, ¶16-23, "...the sign-up interface for enrollment requires the user to input information, including a chosen username and password, along with some general demographic information (eg zip, gender, date of birth, and referrer's name)...", determining the employee ID in response to a customer transaction; HEINTZ pg 2 ¶ 16-23, "...In addition, the member that referred the first-level user to the award program receives bonus points based on the activities of the first-level user. These activities, preferably, include all of the internet activity in which the first-level user may receive points..." determining a transaction type in response to the customer transaction; HEINTZ pg 2 ¶ 16-23, "...In addition, the member that referred the first-level user to the award program receives bonus points based on the activities of the first-level user. These activities, preferably, include all of the internet activity in which the first-level user may receive points..." crediting the

employee account with a first amount if the customer transaction is of a first type

HEINTZ pg 2 ¶ 16-23, "...In addition, the member that referred the first-level user to the award program receives bonus points based on the activities of the first-level user. These activities, preferably, include all of the internet activity in which the first-level user may receive points..." ("The program is also configured to credit the member's account for visits to a promotional Website made by users referred by the member. As shown in FIG. 2, the member (or enrolled user) refers a new user (or first-level user) to the award program on the internet. The member may refer the first-level user by providing the e-mail address of the first-level user, through the Web interface, to the award program, which then generates and sends an email message from the member to the first-level users.") HEINTZ pg 2, ¶20; "The referral and enrollment (creation of new customer account) of a second-level user will benefit (crediting) both the first-level user and the member that referred the first-level user to the award program" HEINTZ pg 2, ¶22; and crediting the employee account with a second amount if the customer transaction is of a second type. HEINTZ pg 2 ¶16-23 ("...Similar to steps 16-18 described above, in step 24, the award program provides points to the first-level user based on the Internet activity (use of existing customer account) of the first level user. These award points are deposited into the account of the first-level user in step 25. In addition, the member that referred the first-level user to the award program receives (crediting) bonus points (second amount) based on the activities of the first-level user (in response to the use of an existing customer account). These activities, preferably, include all of the internet activity (use of existing customer account) in which the first-

level user may receive points....") HEINTZ pg 2 ¶21-22, (...first percentage..., ...second percentage..., ...third percentage..., fourth percentage...) HEINTZ pg 1 ¶6

16. **CLAIM 11:** As per CLAIM 11, HEINTZ further teaches the method of CLAIM 10 as described above, wherein determining the employee ID further comprises retrieving the employee ID from a Point of Sale (POS) terminal. HEINTZ pg 2 ¶16-23 "...once enrolled, the first-level user becomes a member, an account specific to the first-level user is maintained, and in step 22, the award program tracks the internet activity of the first-level user through vendors' websites...." (point of sale). "...The program uses host software and a Web interface to track members' visits or responses to promotional material and the members' qualified online purchases at third-party sites and to maintain an updated account of the members' award points. Preferably, the award program has a Web gateway interface with a site navigation bar, a categorized vendor list, member news and features, and login and help information...." HEINTZ pg 1-2, ¶15-23.

17. **CLAIM 12:** As per CLAIM 12, HEINTZ further teaches the method of CLAIM 10 as described above, wherein the first type is creating a new account. HEINTZ pg 1-2 ¶5-23 "...This method includes **enrolling** at least one first-level user, **referred** by the enrolled user, through a Web interface, tracking internet activity of the at least one first-level user, providing the at least one first-level user with award points earned by the at least one first-level user for the internet activity, and **calculating bonus points awarded to the enrolled user based on a first percentage of the award points earned by the at least one first-level user...." HEINTZ pg 2 ¶16-23, "...In addition,**

the member that referred the first-level user to the award program receives bonus points based on the activities of the first-level user. These activities, preferably, include all of the internet activity in which the first-level user may receive points..." ("The program is also configured **to credit** the member's account for visits to a promotional Website made by users referred by the member. As shown in FIG. 2, the member (or enrolled user) refers a **new** user (or first-level user) to the award program on the internet. The member may refer the first-level user by providing the e-mail address of the first-level user, through the Web interface, to the award program, which then generates and sends an email message from the member to the first-level users.") HEINTZ pg 2, ¶120; "The referral and **enrollment (creation of new customer account)** of a second-level user **will benefit (crediting)** both the first-level user and the member that referred the first-level user to the award program" HEINTZ pg 2, ¶122

18. **CLAIM 13:** As per CLAIM 13, HEINTZ further teaches the method of CLAIM 12 as described above, wherein the second type is using an existing account. HEINTZ pg 2 ¶16-23 ("...Similar to steps 16-18 described above, in step 24, the award program provides points to the first-level user based on the **Internet activity (use of existing customer account)** of the first level user. These **award points** are deposited into the account of the first-level user in step 25. In addition, the member that referred the first-level user to the award program **receives (crediting) bonus points (second amount)** based on the activities of the first-level user (**in response to the use of an existing customer account**). These activities, preferably, include all of the internet activity (**use of existing customer account**) in which the first-level user may receive points...."")

HEINTZ pg 2 ¶21-22, (...first percentage..., ...second percentage..., ...third percentage..., fourth percentage...) HEINTZ pg 1, ¶6

19. **CLAIM 16:** As per CLAIM 16, HEINTZ further teaches the method of CLAIM 10 as described above, wherein the employee account may be redeemed for retail goods. "The bonus points awarded from referrals are, preferably, of equal value to all of the points in the award points summary and are included in the total points. In regard to the spent points, after sufficient points for an award have been earned, the system allows the member to redeem points through the Web interface. The awards offered may be movie tickets (retail goods), gift certificates (retail goods), travel vouchers (retail goods), discounts or any other item." HEINTZ pg 3 ¶25.

20. **CLAIM 17:** As per CLAIM 17, HEINTZ further teaches the method of CLAIM 16 as described above, wherein the retail goods are chosen from a group including a gift certificate, a gift card, and a vacation package. ("The bonus points 33 awarded from referrals are, preferably, of equal value to all of the points in the award points summary and are included in the total points 35. In regard to the spent points 36, after sufficient points for an award have been earned, the system allows the member to redeem points through the Web interface. The awards offered may be movie tickets (retail goods), gift certificates (and gift cards)(retail goods), travel vouchers (vacation package) (retail goods), discounts or ANY OTHER ITEM. A preferred awards interface shows awards available and the number of award points required. After award points have been redeemed and an award chosen, the system processes the request and updates

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the member's account by adding points to the spent points 36 and subtracting points from the current balance 37." HEINTZ pg 3, ¶ 25.

21.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 4 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over HEINTZ (US-2001/0025253), in view of HARTMAN et al, (HARTMAN), "Synthesis of Transit Practice 3: Incentive Programs to Improve Transit Employee Performance", National Academy Press, Washington, D.C. 1994, Transportation Research Board, National Research Council**

22. **CLAIM 4 and CLAIM 21:** As per CLAIMS 4 and 21, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee

loyalty program as stated above, wherein the employee account is **redeemable** for savings bonds. ("The bonus points 33 awarded from referrals are, preferably, of equal value to all of the points in the award points summary and are included in the total points 35. In regard to the spent points 36, after sufficient points for an award have been earned, the system allows the member to **redeem** points through the Web interface. The awards offered may be **movie tickets, gift certificates, travel vouchers, discounts or ANY OTHER ITEM** . A preferred awards interface shows awards available and the number of award points required. After award points have been redeemed and an award chosen, the system processes the request and updates the member's account by adding points to the spent points 36 and subtracting points from the current balance 37." HEINTZ pg 3, ¶ 25.

23. HEINTZ teaches that the points earned are redeemable for items, but does not explicitly teach that the points are redeemable for savings bonds. However, HARTMAN teaches that savings bonds have been offered to employees as an incentive. "Cash payments are one of the two most commonly used types of incentives. In general, performance that meets established criteria is rewarded with a sum of money or a **savings bond**." (HARTMAN pg 14, Col. 1, ¶5)

24. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide for savings bonds as a possible incentive. One would have been motivated to provide for savings bonds as a possible incentive as it is common to offer items such as savings bonds to employees to encourage them to perform well. HEINTZ's list of items offered as reward/incentive is not an all inclusive

list. HEINTZ states that ANY OTHER ITEM may be offered as a reward. In view of HARTMAN it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide savings bonds as a possible award.

25. **Claims 5 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over HEINTZ (US-2001/0025253), in view of Alfonso Licata, (LICATA), "A little can go a long way", Incentive; Oct2001, Vol. 175 Issue 10, p104, 3p.**

26. **CLAIM 5 and CLAIM 22:** As per CLAIMS 5 and 22, HEINTZ further teaches the method of CLAIM 1 and the machine readable medium of CLAIM 18 having stored thereon executable code which, when executed causes implementing an employee loyalty program as stated above, wherein the employee account may be applied toward charitable donations. ("...to redeem...or any other item...") HEINTZ pg 3 ¶25

27. HEINTZ does not explicitly teach offering an incentive to a member or employee including offering awards where a member or employee can apply awards towards a charitable donation. HOWEVER, LICATA teaches that making donations to charity in the name of employees is a common way to motivate employees. ("To motivate them, I'd tell them that I would make a \$50 donation to a charity in their name, and give them some sort of certificate that they could display." (LICATA, pg 2 of best available copy, ¶5)

28. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide for making charitable donations as a possible incentive. One would have been motivated to provide for making charitable donations as a possible incentive as it is common for employers to offer making

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charitable donations to employees to encourage them to perform well. HEINTZ's list of items offered as reward/incentive is not an all inclusive list. HEINTZ states that ANY OTHER ITEM may be offered as a reward. In view of LICATA it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide for making charitable donations as a possible incentive.

**29. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over HEINTZ (US-2001/0025253), in view of HARTMAN et al, (HARTMAN), "Synthesis of Transit Practice 3: Incentive Programs to Improve Transit Employee Performance", National Academy Press, Washington, D.C. 1994, Transportation Research Board, National Research Council**

30. **CLAIM 14:** As per CLAIM 14, HEINTZ further teaches the method of CLAIM 10 as described above, wherein the employee account may be redeemed for savings bonds. ("The bonus points 33 awarded from referrals are, preferably, of equal value to all of the points in the award points summary and are included in the total points 35. In regard to the spent points 36, after sufficient points for an award have been earned, the system allows the member to redeem points through the Web interface. The awards offered may be movie tickets, gift certificates, travel vouchers, discounts or ANY OTHER ITEM . A preferred awards interface shows awards available and the number of award points required. After award points have been redeemed and an award chosen, the system processes the request and updates the member's account by adding points to the spent points 36 and subtracting points from the current balance 37." HEINTZ pg 3, ¶ 25.

31. HEINTZ teaches that the points earned are redeemable for items, but does not explicitly teach that the points are redeemable for savings bonds. However, HARTMAN teaches that savings bonds have been offered to employees as an incentive. "Cash payments are one of the two most commonly used types of incentives. In general, performance that meets established criteria is rewarded with a sum of money or a savings bond." (HARTMAN pg 14, Col. 1, ¶5)

32. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide for savings bonds as a possible incentive. One would have been motivated to provide for savings bonds as a possible incentive as it is common to offer items such as savings bonds to employees to encourage them to perform well. HEINTZ's list of items offered as reward/incentive is not an all inclusive list. HEINTZ states that ANY OTHER ITEM may be offered as a reward. In view of HARTMAN it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide savings bonds as a possible award.

33. **Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over HEINTZ (US-2001/0025253), in view of Alfonso Licata, (LICATA), "A little can go a long way", Incentive; Oct2001, Vol. 175 Issue 10, p104, 3p.**

34. **CLAIM 15:** As per CLAIM 15, HEINTZ further teaches the method of CLAIM 10 as described above, wherein the employee account may be applied toward charitable donations. ("...to redeem...or any other item...") HEINTZ pg 3 ¶25

35. HEINTZ does not explicitly teach offering an incentive to a member or employee including offering awards where a member or employee can apply awards towards a

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charitable donation. HOWEVER, LICATA teaches that making donations to charity in the name of employees is a common way to motivate employees. ("To motivate them, I'd tell them that I would make a \$50 donation to a charity in their name, and give them some sort of certificate that they could display." (LICATA, pg 2 of best available copy, ¶5)

36. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide for making charitable donations as a possible incentive. One would have been motivated to provide for making charitable donations as a possible incentive as it is common for employers to offer making charitable donations to employees to encourage them to perform well. HEINTZ's list of items offered as reward/incentive is not an all inclusive list. HEINTZ states that ANY OTHER ITEM may be offered as a reward. In view of LICATA it would have been obvious to one of ordinary skill in the art at the time of the invention for HEINTZ to provide for making charitable donations as a possible incentive.

### ***Conclusion***

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

38. US PATENT 6415265 B1, US PATENT 6408281 B1, US PATENT 6134533 A, and US PATENT 6691093 B2, Shell et al or Shell, provide for Multi-level marketing computer network server.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL STIBLEY whose telephone number is

(571)270-3612. The examiner can normally be reached on Monday through Friday 7:30am to 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on (571) 272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Stibley/

Examiner, Art Unit 4194

February 8, 2008

/Charles R. Kyle/

Supervisory Patent Examiner, Art Unit 4194

